

National Science Foundation
OFFICE OF THE GENERAL COUNSEL
4201 Wilson Boulevard
Arlington, Virginia 22230

**A SUMMARY OF BASIC CONFLICT-OF-INTEREST AND ETHICS RULES FOR
MEMBERS OF THE NATIONAL SCIENCE BOARD**

INTRODUCTION

As a member of the National Science Board, you are considered a "Special Government employee." (Any employee who works or is expected to work for the NSF on no more than 130 days a year is a "special Government employee.") We anticipate that you will not be expected to perform work for the National Science Foundation on more than sixty days a year. If you were to work for NSF on more than sixty days in any 365-day period, additional conflicts restrictions would apply to you.

This document contains a brief, general summary of the most significant conflict-of-interest and ethics laws and regulations that apply to you as a special Government employee and as an NSB member. The underlying authority include 18 U.S.C. §§ 202-209, 5 CFR, Parts 2635 and 5301, and 45 CFR Part 680.

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PART I -- PARTICIPATION IN NSB DELIBERATIONS

§ 10 Abstention. If you know that you have a disqualifying financial interests or relationship described in either §11 or §12, you must excuse yourself from *all* deliberations of the National Science Board or any of its committees. If in doubt, consult an ethics counselor in the Office of the General Counsel.

§11 Acts affecting financial interests.

(a) No acting as a Federal employee where you or certain others have a financial interest. Unless an exemption listed in subsection (b) applies or unless you first obtain a written waiver in accordance with subsection (c), you may not participate as a Federal employee in any *particular matter* that would directly and predictably affect your personal financial interests (such as through the ownership of stock) or the financial interests of:

Your spouse or minor child;

Your general partner;

Your employer;

Any entity in which you serve as an officer, director, trustee, or general partner;

Any entity with which you are negotiating for prospective employment; or

Any entity with which you have any arrangement for future employment.

NOTE: Particular matters include proposals, awards, and other matters involving specific parties. In addition, rulemaking or any other policy or budget matter that affects a discrete and identifiable class is also considered to be a *particular matters*.

(b) Exemptions. The U.S. Office of Government Ethics has issued exemptions to the restrictions described in subsection (a), which include the following:

(1) You may participate in particular matters affecting the holdings of diversified mutual funds.

(2) You may participate in particular matters affecting issuers of listed securities where the holdings are modest:

(A) If the particular matter involves specific parties, you may participate in the matter if your holdings in affected issuers (along with the holdings of your spouse and minor children) total no more than \$5,000; or

(B) If the particular matter does not involve specific parties, you may participate if you, your spouse, and minor children own no more than \$25,000 in securities of an entity which is part of the affected class. If you, your spouse, and your minor children have holdings in more than one such affected entity, you may participate if the combined value of all such holdings is no more than \$50,000.

(3) You may participate in particular matters affecting one campus of a State multi-campus university system, if you are employed at separate campus of that university and your position at the separate campus does not involve multi-campus responsibilities.

(c) Individual Waivers. This provision may be waived where the financial interest involved is so insubstantial that it is unlikely to affect the integrity of your services to the Government. If you think such a waiver is called for, consult an ethics counselor in the Office of the General Counsel. The ethics counselor will advise you and will make a recommendation to the official who would have to approve such waiver.

§ 12 Acts affecting other relationships. Relationship not covered in § 11 may still result in conflicts of interest (or the appearance of conflicts). You must obtain permission from the NSF's Designated Agency Ethics Official in the Office of the General Counsel (or from the NSB Chairman) before participating in any particular matter involving specific parties (such as a proposal or award) when you determine that a reasonable person with knowledge of the relevant facts would question your impartiality. Specifically, you must obtain such permission if the matter is likely to affect the financial interests of any member of your household or if you have a *covered relationship* with a party to the matter or with someone who represents a party. You have covered relationship with:

(1) An entity from which you are seeking employment, or any entity with which you have or seek business, contractual, or other financial relationship (other than a routine consumer transaction).

(2) A member of your household or a relative with whom you have a close personal relationship.

(3) An entity with which your spouse, parent, or dependent child is, or seeks to be, employed.

(4) An entity with which you were employed within the last year.

- (5) An organization in which you are an *active participant*. (Your participation in an organization is *active* if, for example, you chair a committee or subcommittee, act as a spokesperson, or help direct the organization's activities. Significant time spent promoting the organization's specific programs or coordinating its fundraising efforts indicates *active* participation).
- (6) An institution with which you are affiliated through:
 - (A) Membership on visiting committee or similar body. (This relationship is automatically disqualifying where the particular school, department, or faculty that the body advises originated the proposal from that school, department, or faculty formed the basis for an award.); or
 - (B) Current enrollment as a student, or enrollment of a member of your household.
- (7) An investigator, project director, or other person identified as a party with whom you have a family relationship as sibling, parent, spouse or child. (Any such relationship is automatically disqualifying.)

PART II -- RESTRICTIONS ON REPRESENTATION

§20 Negotiations with NSF staff. During your term on the National Science Board you must represent yourself or any other private party in negotiations or other dealings with an NSF official on any proposal, project, or other particular matter.

§21 Participation in NSF proposals and projects.

- (a) General; substitute negotiator. You may prepare a proposal for submission to the NSF and may be a principal investigator on the proposal and on any subsequent award. The proposal should also name a substitute negotiator to represent the project and the institution in dealings with NSF officials from which you would be restricted as a member of the Board. (If you are a principal investigator under an existing award before your appointment to the Board, your institution will be asked to name a substitute negotiator for the same purpose before the appointment becomes official.

(b)

(b) Scientific and technical information. You may respond to requests from a program officer or another NSF official for scientific and technical information relating to an award or proposals, such as might be needed to respond to reviewer comments. You must not, however, couple the information you supply with any attempt to influence action on the proposal. (If possible, have someone else respond.)

- (c) Compensation; reimbursement of expenses. No NSF award made while you are a member of the Board may be charged for any compensation paid to you. An award may be charged, however, for actual expenses you incur in doing work supported by the award. (If you are already an investigator or consultant under an NSF award when you became a Board member, the award may be charged for compensation to you to the extent established before your nomination.)

§22 Government-wide restriction. You must never represent a non-Federal party in its dealings with any Executive or Judicial Branch official on any proposal, project, or other particular matter involving specific parties if you were personally involved with that matter at or for the NSF. You are also prohibited from receiving compensation for such representational activities, even when performed by others.

PART III -- MISCELLANEOUS RESTRICTIONS

§30 Misuse of inside information. If your NSB position gives you access to Government information not generally available to the public, you must not use that information for your private benefit or make it available for the private benefit of any other person or organization. The Director or the Chairman of the National Science Board may waive (in writing) application of these rules and authorize use of non-public information in public interest. Consult an ethics counselor in the Office of the General Counsel.

§31 Gifts.

- (a) In General. You must not solicit or accept any gift given to you because of your position as a Member of the National Science Board. In addition, you must not solicit or accept any gift from NSF grantees, contractors, or others seeking or doing business with the NSF; anyone with interests that could be affected by performance of your NSB duties; or any organization the majority of whose members meet the above description. Exceptions include: gifts given because of your non-Federal business or employment, gifts from personal friends or family members, modest (non-meal) refreshments, and non-money items worth no more than \$20 (subject to a \$50 calendar-year limit) from any one source.

(b) Awards and honorary degrees. You must obtain permission to accept an award or honorary degree, except when the award or honorary degree results from your non-Government business or employment activities, and it is clear that the award or honorary degree has not been offered or enhanced because of your status as a NSB member. If in doubt, consult an ethics counselor in the Office of the General Counsel.

(c) Gifts from foreign governments. You may accept unsolicited gifts from a foreign government or international organization worth up to \$240. If refusal to accept a larger gift would cause offense or embarrassment to the United States, you may accept it on behalf of the U.S. Government -- consult with an ethics counselor in the Office of the General Counsel.

§32 Misuse of your NSF title or authority. You must not use your Government employment for a purpose that is (or gives the appearance of being) motivated by desire for private gain for yourself or anyone else. You must not use your Government employment to coerce (or appear coerce) anyone to provide financial benefit to yourself or anyone else.

§33 Fundraising. You may not engage in personal fundraising from anyone who has interests that could be substantially affected by the performance of your NSB duties.

§34 Misuse of Government resources. You must not use Government property, services or other resources for your private benefit or for the private benefit of others, except as your public duties benefit particular members of the public in intended ways.

§35 Involvement with foreign governments. The U.S. Constitution prohibits you from accepting any employment, position, or other "emolument" from a foreign government (including any political subdivision or a foreign government). This ban does not apply to privately owned foreign institutions or companies, or to international organizations.

§36 Political activity. You may not engage in partisan political activity while on duty for the NSF.

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